

**Minutes of Public Meeting**  
**ARIZONA BOARD OF FINGERPRINTING**  
April 11, 2001

The Arizona Board of Fingerprinting held its meeting at the Department of Public Safety, Second Floor Facilities Conference Room, 2102 West Encanto Blvd., Phoenix, Arizona. The meeting began at approximately 9:12 a.m.

MEMBERS PRESENT

Mike LeHew  
Corinne Velasquez  
Kim Pipersburgh  
Katherine Hill

MEMBERS ABSENT

AOC Representative

**CALL TO ORDER**

**ROLL CALL**

**MINUTES**

Ms. Velasquez made a motion to approve the minutes of January 17, 2001. Motion carried 4-0.

MOTION

**BUSINESS REPORTS**

Mr. LeHew officially welcomed the new Board member from the Department of Juvenile Corrections. Ms. Hill has served as an alternate for Board hearings, but this was her first *meeting* as a Board representative. Cheryl Rowley, former Board member from DJC, was present and was presented with a plaque thanking her for her efforts while on the Board.

Mr. LeHew discussed the status of the Board being assigned an attorney by the Attorney General's Office. Another letter was sent from the Department of Education to the Attorney General asking that one be assigned.

Ms. Velasquez explained that the subcommittee did not meet this quarter as

RULES SUBCOMMITTEE REPORT

planned due to illness and injuries of the subcommittee members.

After discussion, Ms. Velasquez made the motion to approve the third quarter budget report. Motion carried 4-0.

#### QUARTERLY BUDGET REPORT

#### MOTION

After discussion, Ms. Velasquez made the motion to approve the third quarter strategic plan report. Motion passed 4-0.

#### QUARTERLY STRATEGIC PLAN REPORT

#### MOTION

There was some discussion regarding the statistics and charts showing Board activity. It appears that at least one was incorrect. Mr. LeHew directed the Director to review all of them, correct as needed and resubmit at the next quarterly meeting. Mr. LeHew also directed Board staff to provide additional statistics indicating in more depth the results of good cause exception decisions.

#### STATISTICAL REVIEW OF BOARD ACTIVITIES

Further discussion revolved around the possibility of the Board preparing and issuing an annual report. Ms. Velasquez has several examples from other Boards that she will provide for review.

The Auditor General's Office conducted a procedural review of the Board of Fingerprinting's internal controls. They reviewed cash disbursements, purchasing and equipment activities and noted one deficiency in internal controls: that the Board did not capitalize computer software design development. Since the software development is housed on the DPS server, it is considered a "betterment" to their server and the Board should have transferred the cost of the design to their server's fixed asset listing. DPS does not carry software design as a fixed asset but will include it when the new guidelines are published.

#### AUDITOR GENERAL'S FINDINGS AND BOARD RESPONSE

## **GENERAL SESSION**

The issue was brought by DPS because their statute allows them to suspend the cards of people who are arrested or convicted for any precluded offense, but only allows them to revoke a card for convictions of non-appealable offenses. The Board is authorized to request that DPS revoke the card of people convicted of non-appealable offenses. The law is flawed in that there is no provision to revoke the card of people subsequently convicted for an appealable offense. Legislation is needed to correct this issue.

### **CONSIDERATION OF BOARD REVOCATION OF CARDS WITHOUT APPEAL OR HEARING**

The Board again reviewed the requirements and processes in place to expedite good cause exceptions. Certain modifications were proposed including allowing 45 days for applicants to return their completed applications; allowing, under certain circumstances, people who have been arrested or convicted of domestic violence charges to be eligible for expedited consideration and interim work permits; and requiring the applicant to provide a copy of the police report as well as the disposition information for all offenses occurring five years or less with no disposition information available through DPS. (Attached is a copy of the revised criteria.) Ms. Velasquez made the motion to approve the changes as discussed. Motion carried 4-0.

### **CONSIDERATION OF REVIEW OF THE EXPEDITED APPROVAL PROCESS**

**MOTION**

## **CALL TO THE PUBLIC**

Although Ms. Rowley was present at the beginning of the meeting, there were no other visitors present.

## ADJOURNMENT

Mr. LeHew adjourned the meeting at approximately 1:15 p.m.

Approved by the Board on the 24 day of October, 2001.

Walter LeHew  
Chair

**BOARD OF FINGERPRINTING**  
**Quarterly Budget Report**  
**for the quarter ending March 31, 2001**

4/3/01

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**STARTING BALANCE**

\$ -  
\$ 156,300.00

Adjusted Balance = \$ 156,300.00

Personal Services \$ 59,490.00

ERE \$ 15,994.00

Professional/Outside Services \$ 14,782.00

In-State Travel \$ -

Out-of-State Travel \$ -

Other Operating \$ 9,234.00

Capital Equipment \$ -

Sub Total = \$ 99,500.00

REMAINING BALANCE = \$ 56,800.00

# ARIZONA DEPARTMENT OF PUBLIC SAFETY

12 WEST ENCANTO BLVD. P.O. BOX 6638 PHOENIX, ARIZONA 85005-6638 (602) 223 - 2000



JANE DEE HULL  
GOVERNOR

DENNIS A. GARRETT  
DIRECTOR

**DATE:** March 26, 2001

**TO:** Lt. Colonel David A. Felix, Assistant Director, Criminal Justice Support Division

**FROM:** Sally A. Loveland, Director, Board of Fingerprinting *SA*

**SUBJECT:** THIRD QUARTER STRATEGIC PLAN PROGRESS REPORT - FY2001

**FOR:** ☒ action ☐ decision ☒ information ☐ signature

Enclosed is a copy of the Board's progress report for the third reporting period of Fiscal Year 2001. This information is provided for inclusion in the Department's strategic plan progress report to the Governor.

If you would like additional information, please contact me at extension 2809.

**RIZONA DEPARTMENT OF PUBLIC SAFETY**  
**STRATEGIC PLAN PROGRESS REPORT**

Begin a new Page 1 for each program/sub-program goal. Complete the header information only on Page 1 for each goal. Sequentially number continuation pages for each goal.

Page 2 of 2

DATE 3/26/01

PROGRAM / SUB-PROGRAM Fingerprint Identification Bureau/Arizona Board of Fingerprinting

FY: 2001 QTR: 3

GOAL: II. To provide applicants with timely decisions on their good cause exception appeals.

NO.	MEASURABLE OBJECTIVE	STATUS	PERFORMANCE MEASURE	TARGETED PERF.	ACTUAL PERF.	REMARKS
1.	By June 30, 2001, reduce the average turn-around time from receipt of application to decision/hearing to 30 days for good cause exception decisions and 60 days for good cause exception hearings.	AS	Number of good cause exception decisions/hearings requests	600	1,173	To date: 407 appeals for V/A and 766 appeals for ACCI  We are significantly over the projected number of appeals expected to date. This volume has seriously affected our ability to meet our targeted performance measures.
		BS	Number of good cause exception appeals decided/heard	206 / 312	142 / 46	The Board is seriously short-staffed and unable to absorb the volume of appeals. An additional interim staff employee has been hired to help through the end of this fiscal year.
		BS	Average number of days from receipt of application package to decision/hearing	30 / 60	58 / 179	Weekly hearings have been scheduled through the end of the calendar year in order to reduce the waiting period. In addition, both the Departments of Economic Security and Education have committed to providing staff to help meet this very aggressive schedule.
2.	On an ongoing basis, review the Board requirements of appellants who desire good cause exceptions to ensure that each continues to be reasonable, essential, and relevant for the Board decision-making process.	AS	Review performed	1	4	
		BS	Compare with other states or comparable programs	AZ/Other states/programs	0	Hearings have taken precedence over conducting surveys of other states' programs.
3.	Improve the efficiency of Board operations by September 30, 2000, through completion of the computer tie-in with the DPS ACCTRAK system.	CP	Board/ACCTRAK programming complete	9/30/00	12/01/00	Complete
	Improve the efficiency of Board operations by December 31, 2000, through completion of the computer tie-in with the DPS Vulnerable Adult system.	CP	Board/Vulnerable Adult programming complete	12/31/00	11/15/00	Complete

\*Status Codes: OS = On Schedule AS=Ahead of Schedule BS=Behind Schedule CP=Completed CA=Cancelled DPS 802-04145 New 7/96



ARIZONA DEPARTMENT OF PUBLIC SAFETY  
STRATEGIC PLAN PROGRESS REPORT

Begin a new Page for each budget program/sub-program goal. Complete the header information only on Page 1 for each goal. Sequentially number continuation pages for each goal.

Page 1 of 2

DATE 3/26/01

PROGRAM / SUB-PROGRAM Fingerprint Identification Bureau/Arizona Board of Fingerprinting

FY: 2001 QTR: 3

GOAL: 1. To develop and implement fair standards, rules, policies and procedures for approving good cause exceptions.

NO.	MEASURABLE OBJECTIVE	*STATUS	PERFORMANCE MEASURE	TARGETED PERF.	ACTUAL PERF.	REMARKS
1.	Initiate the rule making process for the Board of Fingerprinting by July 30, 2001.	CP	Docket filed	6/30/2001	7/1/2000	
2.	At least quarterly, schedule open meetings with affected agencies and other interested parties to review and discuss proposed rules and policies.	OS	Number of Meetings held	2	2	No meetings were held this quarter.
		AS	Number of agencies, stakeholders attending meetings	10	20	

\*Status Codes: OS = On Schedule AS=Ahead of Schedule BS=Behind Schedule CP=Completed CA=Cancelled DPS 802-04145 New 7/96



# ARIZONA BOARD OF FINGERPRINTING

4/3/01

So far this year, DPS:

V/A Completed:	9,934	Denied:	619	6%
ACCT Completed:	26,274	Denied:	1,021	4%

So far this year, BOF:

## Vulnerable Adults:

Total Number of Appeals\*  
 Total Number of Closed\*  
 Total Number of Pending

421  
 -293  
 128

57%

Total Approved  
 % of Total Appeals Approved

168  
 40%

74%\*\*

## ACCT:

Total Number of Appeals  
 Total Number of Closed  
 Total Number of Pending

1,339  
 1,024  
 315

47%

Total Approved  
 % of Total Appeals Approved

481  
 38% 47 1/2

49%\*\*

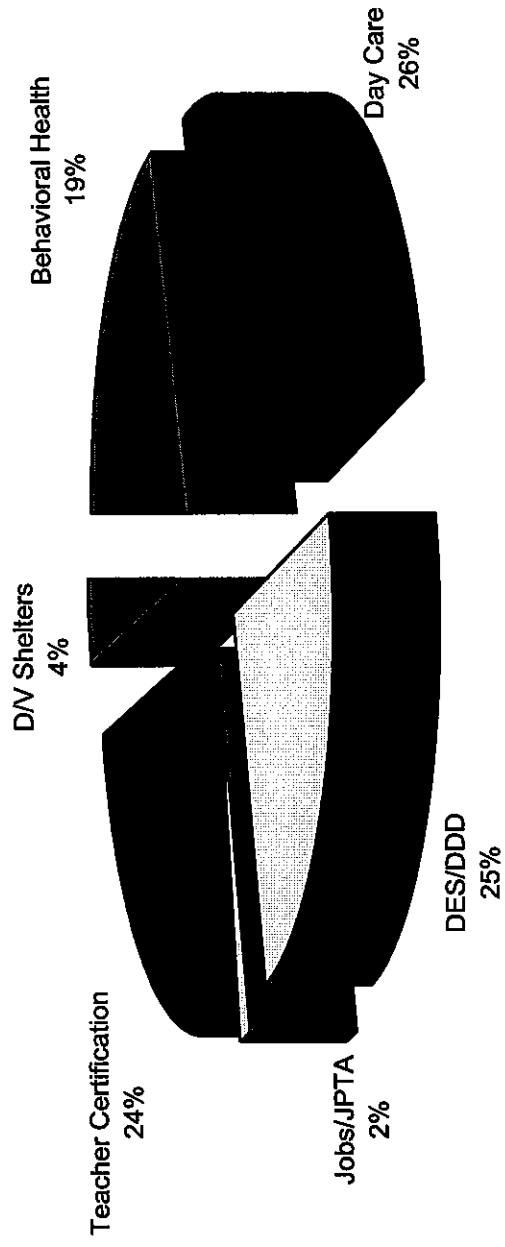
\* Includes 10 DHS appeals.

\*\* NOTE: The total closed includes all applicants who applied but never returned their applications. If the applicants who never returned their applications are excluded from the analysis, approval rates increase significantly. (74% for V/A and 49% for ACCT.)

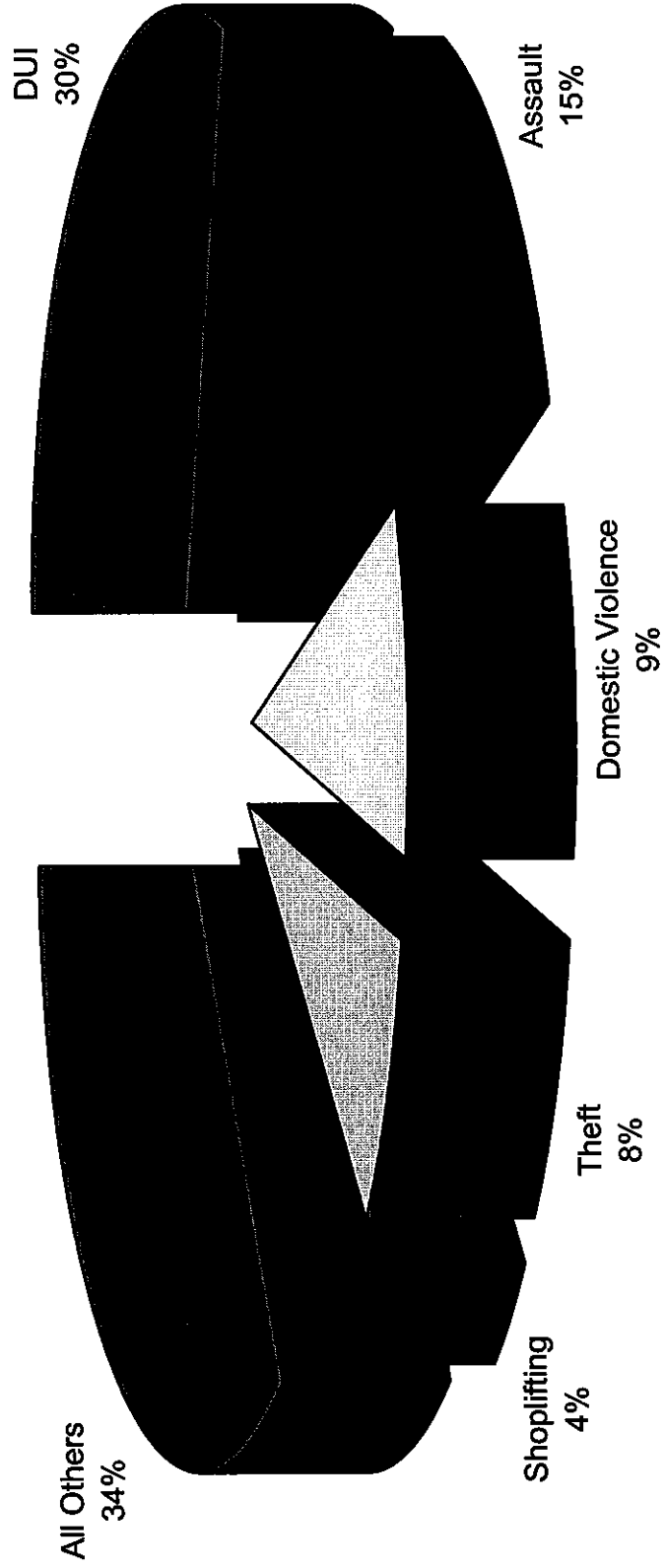
\*\*\* ACCT figures are based over a 2-year period while V/A are since July.

Total # of Appeals Request  
 Closed - their fault  
 Closed - Board Decision  
 - approval  
 - denied

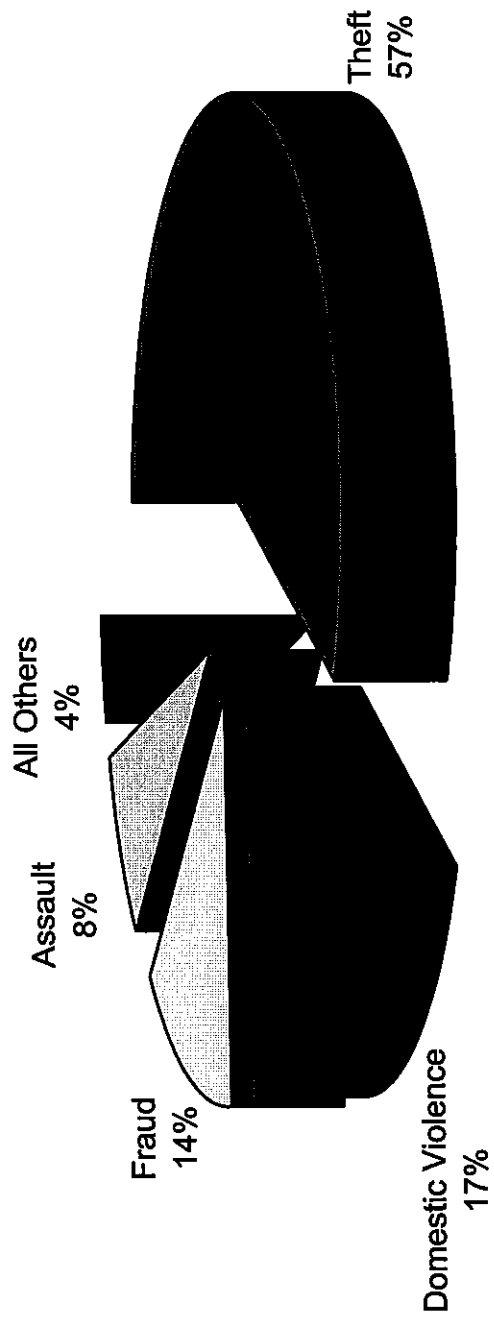
# ACCT Appeals By Program Area



# Top 5 Offenses of Board of Fingerprinting Applicant Clearance Card Appeals



## Top 4 Offenses of Board of Fingerprinting Vulnerable Adult Appeals



**PRELIMINARY  
COPY**

**STATE OF ARIZONA  
BOARD OF FINGERPRINTING  
Procedural Review Letter  
As of February 23, 2001**

STATE OF ARIZONA  
BOARD OF FINGERPRINTING  
Procedural Review Letter  
As of February 23, 2001

Table of Contents	Page
Procedural Review Letter	1
Board Response	3

**PRELIMINARY  
COPY**

# PRELIMINARY COPY

April 6, 2001

Sally Loveland, Director  
State of Arizona, Board of Fingerprinting  
Mail Code 2500  
P.O. Box 6638  
Phoenix, AZ 85005-6638

**Subject: Procedural Review Letter**

Dear Ms. Loveland:

We have performed a procedural review of the Board of Fingerprinting's internal controls in effect as of February 23, 2001. Our review consisted primarily of inquiries, observations, and selected tests of internal control policies and procedures, accounting records, and related documents. The review was more limited than would be necessary to give an opinion on internal controls. Accordingly, we do not express an opinion on internal controls or ensure that all deficiencies in internal controls are disclosed.

Specifically, we reviewed cash disbursements, purchasing, and equipment.

As a result of our review, we noted a deficiency in internal controls that the Board's management should correct to ensure that it fulfills its responsibility to establish and maintain adequate internal controls. That deficiency and our recommendation concerning it is described below.

## **The Board did not capitalize computer software**

The Board did not record the costs associated with the development of customized computer software as a capital asset on the fixed assets listing.

To help ensure that assets are properly stated on the fixed assets listing in accordance with generally accepted accounting principles, the Board should capitalize all costs associated with the development of customized computer software over \$5,000 and list the item on its fixed assets listing. (*State of Arizona Accounting Manual*, pages II-G2 and II-G3)

# PRELIMINARY COPY

Sally Loveland, Director  
April 6, 2001  
Page Two

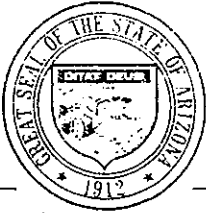
This letter is intended solely for the information and use of the Board of Fingerprinting and is not intended to be and should not be used by anyone other than the specified party. However, this letter is a matter of public record, and its distribution is not limited.

Should you have any questions concerning our procedural review, please let us know.

Sincerely,

Dennis L. Mattheisen, CPA  
Financial Audit Director





## ARIZONA BOARD OF FINGERPRINTING

Mail Code 2500 P.O. Box 6638 Phoenix, AZ 85005-6638  
Telephone: (602) 223-2800 Fax: (602) 223-2947

**Board Members:**

Mr. Mike LeHew, Chair

Ms. Corinne Velasquez, Vice Chair

Ms. Cynthia Goertz Ms. Katherine Hill Ms. Kim Pipersburgh

March 27, 2001

Dennis L. Mattheisen, CPA  
Financial Audit Director  
Office of the Auditor General  
2910 North 44<sup>th</sup> Street, #410  
Phoenix, AZ 85018

Re: Board of Fingerprinting Audit Response – First Half Fiscal Year 2001

Dear Mr. Mattheisen:

The Arizona Board of Fingerprinting has reviewed the findings contained in the procedural audit conducted by Auditor General personnel for the first half of fiscal year 2001. Following is the Board's response to the auditor's finding that "The Board did not capitalize computer software."

The Department of Public Safety (DPS) provides capital inventory, accounting, financial and other services to the Board. According to the General Accounting Office (GAO), the Board's purchase of software application development was correctly coded as professional and outside services when purchased. The purchase should then have been assigned a fixed asset number and carried on the fixed asset listing. Since the Board's software application is housed on DPS' server, it is considered a "betterment" to their server and should be transferred to their fixed asset listing.

The GAO recently modified the fixed asset system to accommodate this type of situation (that is, assign a fixed asset number to an item purchased under a comptroller object code other than the 8400 series), but no guidelines have yet been issued to the state agencies. DPS follows the guidelines set forth in the State of Arizona Accounting Manual and fully intends to comply with the new GAO guidelines respective to these issues just as soon as they are published.

If you have any questions, or if I can be of further assistance, please contact me at (602) 223-2809.

Sincerely,

Sally A. Loveland  
Director

AGENDA ITEM NO. III. A.

BOARD OF FINGERPRINTING MEETING DATE: April 11, 2001

SUBJECT: Consideration of Board Revocation of Cards Without Appeal or Hearing

SUBMITTED BY: Mr. LeHew

**BACKGROUND INFORMATION:**

A.R.S. §41-1758.04 allows the Department of Public Safety (DPS) to suspend a person's fingerprint clearance card who has been arrested for any precluded offense. The statute further allows the DPS to revoke the card of anyone who was subsequently convicted of a non-appealable offense. The statute does not address what to do with persons who were arrested and *later convicted* of an appealable offense. They have the right to appeal to the Board for a good cause exception, but if they fail to follow through on that (or even if they do and the Board upholds DPS' suspension) DPS cannot revoke their card. It remains in a suspended state.

A.R.S. §41-1758.03 states that the DPS can revoke a card upon the written request of the Board. They assumed that the Board could then send us notification to revoke those people who had been suspended but either never followed through on their appeal rights, or whose suspension the Board subsequently upheld.

However, A.R.S. §41-619.55 (the Board's statute) only allows the Board to request that DPS revoke a card of a person who has been convicted of a non-appealable offense. This is basically the same as the DPS statute and doesn't address the issue of convictions of appealable offenses. DPS originally thought that the Board would be able to help them address the suspended "suspensions" of appealable convictions by requesting revocations of these cards, however, it appears that the issue must be addressed in statute.

Attached are copies of affected statutes.

**BOARD ACTION REQUESTED:**

**INFORMATION** ☒ **YES**

**ACTION** ☐ **NO** (described below)

**ATTACHMENTS:**

**YES** ☒ **YES**

**NO** ☐ **NO**

41-619.55. Good cause exceptions; revocation

A. The board shall determine good cause exceptions.

B. The board shall hold a good cause exception hearing if the board determines that it either:

1. Will deny a good cause exception.
2. Does not have enough information to make a final determination.

C. The following persons shall be present during good cause exception hearings:

1. A representative of any state agency that requires a person to have a valid fingerprint clearance card.
2. The person who requested the good cause exception hearing. The person may be accompanied by a representative at the hearing.

D. The board may grant a good cause exception if the person shows to the board's satisfaction that the person is not awaiting trial on or has not been convicted of committing any of the offenses listed in section 41-1758.03, subsection B, C, F or G or that the person is successfully rehabilitated and is not a recidivist. Before granting a good cause exception the board shall consider all of the following:

1. The extent of the person's criminal record.
2. The length of time that has elapsed since the offense was committed.
3. The nature of the offense.
4. Any applicable mitigating circumstances.
5. The degree to which the person participated in the offense.
6. The extent of the person's rehabilitation, including:
  - (a) Completion of probation, parole or community supervision.
  - (b) Whether the person paid restitution or other compensation for the offense.
  - (c) Evidence of positive action to change criminal behavior, such as completion of a drug treatment program or counseling.
  - (d) Personal references attesting to the person's rehabilitation.

E. If the board grants a good cause exception to a person, the board shall request in writing that the department of public safety issue a class one or class two fingerprint clearance card to the person.

F. The board shall review reports it receives of the arrest, charging or conviction of a person for offenses listed in section 41-1758.03 who previously received a fingerprint clearance card.

G. The board may request in writing that the department of public safety revoke a person's fingerprint clearance card pursuant to section 41-1758.04 if the person received a class one or class two

fingerprint clearance card and the person is subsequently convicted of an offense listed in section 41-1758.03, subsection B or F.

☐ H. Pending the outcome of a good cause exception determination, the board may issue interim approval to continue working to a good cause exception applicant.

**41-1758.03. Fingerprint clearance cards; issuance**

A. On receiving the state and federal criminal history record of a person, the division shall compare the record with the list of criminal offenses that preclude the person from receiving a class one fingerprint clearance card. If the person's criminal history record does not contain any of the offenses listed in subsections B and C of this section, the division shall issue the person a class one fingerprint clearance card.

B. A person who is awaiting trial on or who has been convicted of committing one or more of the following offenses in this state or similar offenses in another state or jurisdiction is precluded from receiving a class one fingerprint clearance card:

1. Sexual abuse of a minor.
2. Sexual abuse of a vulnerable adult.
3. Incest.
4. First or second degree murder.
5. Kidnapping.
6. Arson.
7. Sexual assault.
8. Sexual exploitation of a minor.
9. Sexual exploitation of a vulnerable adult.
10. Commercial sexual exploitation of a minor.
11. Commercial sexual exploitation of a vulnerable adult.
12. Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs.
13. Robbery.
14. Child prostitution as prescribed in section 13-3212.
15. Child abuse.
16. Abuse of a vulnerable adult.
17. Sexual conduct with a minor.
18. Molestation of a child.
19. Molestation of a vulnerable adult.

20. Manslaughter.

21. Aggravated assault.

22. A dangerous crime against children as defined in section 13-604.01.

23. Exploitation of minors involving drug offenses.

24. Felony offenses involving contributing to the delinquency of a minor.

25. Taking a child for the purposes of prostitution as defined in section 13-3206.

C. A person who is awaiting trial on or who has been convicted of committing one or more of the following offenses is precluded from receiving a class one fingerprint clearance card, except that the person may petition the board of fingerprinting for a good cause exception pursuant to section 41-619.55:

1. Endangerment.

2. Threatening or intimidating.

3. Assault.

4. Unlawfully administering intoxicating liquors, narcotic drugs or dangerous drugs.

5. Assault by prisoners with intent to incite a riot or participate in a riot.

6. Assault by vicious animals.

7. Drive by shooting.

8. Assaults on officers or fire fighters.

9. Discharging a firearm at a structure.

10. Indecent exposure.

11. Public sexual indecency.

12. Lewd and lascivious acts.

13. Criminal damage.

14. Aggravated criminal damage.

15. Theft.

16. Unlawful use of means of transportation.

17. Theft by extortion.

18. Shoplifting.
19. Unlawful failure to return rented property.
20. Issuing a bad check.
21. Forgery.
22. Criminal possession of a forgery device.
23. Obtaining a signature by deception.
24. Criminal impersonation.
25. Theft of a credit card or obtaining a credit card by fraudulent means.
26. Receipt of anything of value obtained by fraudulent use of a credit card.
27. Forgery of a credit card.
28. Fraudulent use of a credit card.
29. Possession of any machinery, plate or other contrivance or incomplete credit card.
30. False statement as to financial condition or identity to obtain a credit card.
31. Fraud by persons authorized to provide goods or services.
32. Credit card transaction record theft.
33. Bribery of a public servant.
34. Trading in public office.
35. Commercial bribery.
36. Improper influence on a public officer or employee for consideration.
37. Misconduct involving weapons.
38. Misconduct involving explosives.
39. Depositing explosives.
40. Misconduct involving simulated explosive devices.
41. Concealed weapon violation.
42. Enticement of any persons for purposes of prostitution.
43. Procurement by false pretenses of any person for purposes of prostitution.

- 44. Procuring or placing persons in a house of prostitution.
- 45. Receiving earnings of a prostitute.
- 46. Causing one's spouse to become a prostitute.
- 47. Detention of persons in a house of prostitution for debt.
- 48. Keeping or residing in a house of prostitution or employment in prostitution.
- 49. Pandering.
- 50. Transporting persons for the purpose of prostitution or other immoral purposes.
- 51. Possession and sale of peyote.
- 52. Possession and sale of a vapor-releasing substance containing a toxic substance.
- 53. Sale of precursor chemicals.
- 54. Possession, use or sale of marijuana, dangerous drugs or narcotic drugs.
- 55. Manufacture or distribution of an imitation controlled substance.
- 56. Manufacture or distribution of an imitation prescription-only drug.
- 57. Manufacture or distribution of an imitation over-the-counter drug.
- 58. Possession or possession with intent to use an imitation controlled substance.
- 59. Possession or possession with intent to use an imitation prescription-only drug.
- 60. Possession or possession with intent to use an imitation over-the-counter drug.
- 61. Manufacture of certain substances and drugs by certain means.
- 62. Adding poison or other harmful substance to food, drink or medicine.
- 63. Dropping objects from an overpass.
- 64. A criminal offense involving criminal trespass and burglary under title 13, chapter 15.
- 65. A criminal offense involving business and commercial frauds under title 13, chapter 22.
- 66. A criminal offense involving organized crime and fraud under title 13, chapter 23.
- 67. Child neglect.
- 68. Neglect of a vulnerable adult.
- 69. Misdemeanor offenses involving contributing to the delinquency of a minor.



70. A violation of section 28-1381, 28-1382 or 28-1383.

71. Offenses involving domestic violence.

D. Notwithstanding subsection C of this section, on receiving written notice from the board of fingerprinting that a good cause exception was granted pursuant to section 41-619.55, the division shall issue a class one fingerprint clearance card to the person.

E. If a person is precluded from receiving a class one fingerprint clearance card pursuant to subsection B or C of this section, the division shall compare the employee's criminal history record with the list of criminal offenses that preclude the person from receiving a class two fingerprint clearance card. If the person's criminal history record does not contain any of the offenses listed in subsections F and G of this section, the division shall issue the person a class two fingerprint clearance card.

F. A person who is awaiting trial on or who has been convicted of committing one or more of the following offenses in this state or similar offenses in another state or jurisdiction is precluded from receiving a class two fingerprint clearance card:

1. Sexual abuse of a minor.
2. Incest.
3. First or second degree murder.
4. Sexual assault.
5. Sexual exploitation of a minor.
6. Commercial sexual exploitation of a minor.
7. A dangerous crime against children as defined in section 13-604.01.
8. Child abuse.
9. Sexual conduct with a minor.
10. Molestation of a child.
11. Exploitation of minors involving drug offenses.

G. A person who is awaiting trial on or who has been convicted of committing one or more of the following offenses is precluded from receiving a class two fingerprint clearance card, except that the person may petition the board of fingerprinting for a good cause exception pursuant to section 41-619.55:

1. Arson.
2. Felony offenses involving contributing to the delinquency of a minor.
3. Felony offenses involving sale, distribution or transportation of, offer to sell, transport or distribute or conspiracy to sell, transport or distribute marijuana, dangerous drugs or narcotic drugs.

4. Felony offenses involving the possession or use of marijuana, dangerous drugs or narcotic drugs.
5. Burglary.
6. Aggravated or armed robbery.
7. Robbery.
8. Kidnapping.
9. Manslaughter.
10. Assault or aggravated assault.
11. A violation of section 28-1381, 28-1382 or 28-1383.
12. Offenses involving domestic violence.

H. Notwithstanding subsection G of this section, on receiving written notice from the board of fingerprinting that a good cause exception was granted pursuant to section 41-619.55, the division shall issue a class two fingerprint clearance card to the person.

I. If the division denies a person's application for a class one or class two fingerprint clearance card pursuant to subsection C or G of this section and a good cause exception is requested pursuant to section 41-619.55, the division shall release the person's criminal history record to the board of fingerprinting.

J. A person shall be granted a fingerprint clearance card if either of the following applies:

1. An agency granted a good cause exception before August 16, 1999 and no new crime is identified. The fingerprint clearance card shall specify only the program that granted the good cause exception. On the request of the applicant, the agency that granted the prior good cause exception shall notify the division in writing of the date on which the prior good cause exception was granted and the date of the conviction and the name of the offense for which the good cause exception was granted.
2. The board granted a good cause exception and no new crime is identified. The fingerprint clearance card shall specify the programs for which the board granted the good cause exception.

K. The licensee or contract provider shall assume the costs of fingerprint checks and may charge these costs to persons required to be fingerprinted.

L. A person who is under eighteen years of age or who is at least ninety-nine years of age is exempt from the fingerprint clearance card requirements of this section. At all times the person shall be under the direct visual supervision of personnel who have valid fingerprint clearance cards.

M. The division may conduct periodic state criminal history record checks for the purpose of updating the clearance status of current fingerprint clearance card holders and may notify the board of fingerprinting and the agency employing the person of the results of the records check.

N. The division shall maintain the fingerprint records of an individual who has received a fingerprint clearance card pursuant to section 15-534 until the individual reaches the age of ninety-nine or two years after the division is notified that the individual is deceased or until the division is notified by

the state board of education of the expiration of the individual's certificate. The state board of education shall notify the division of the expiration of an individual's certificate within sixty days of the expiration of the individual's certificate. The division shall include these records in the periodic state criminal history record checks conducted pursuant to subsection M of this section.

O. The division shall revoke a person's fingerprint clearance card on receipt of a written request for revocation from the board of fingerprinting pursuant to section 41-619.55.

P. The division shall not issue a class one or class two fingerprint clearance card to a person if the division cannot determine, within fifteen business days after receipt of the person's state and federal criminal history record information, whether the person is awaiting trial on or has been convicted of committing any of the offenses listed in subsection B, C, F or G of this section. If the division is unable to make the determination required by this section and does not issue a class one or class two fingerprint clearance card to a person, the person may request a good cause exception pursuant to section 41-619.55.

Q. If after conducting a state and federal criminal history record check the division determines that it is not authorized to issue a class one or class two fingerprint clearance card to a person, the division shall notify the agency that licenses or employs the person that the division is not authorized to issue a fingerprint clearance card.

R. The division is not liable for damages resulting from:

1. The issuance of a fingerprint clearance card to a person who is later found to have been ineligible to receive a fingerprint clearance card at the time the card was issued.

2. The denial of a fingerprint clearance card to a person who is later found to have been eligible to receive a fingerprint clearance card at the time issuance of the card was denied.

S. The issuance of a class one or class two fingerprint clearance card does not entitle a person to employment.

T. If a court of competent jurisdiction sets aside a judgment of guilt pursuant to section 13-907 for a person who was convicted of an offense listed in subsection B, C, F, or G of this section, the person shall be issued a valid fingerprint clearance card unless a new crime is identified.

**41-1758.04. Denial, suspension or revocation of fingerprint clearance card**

- A.** The division shall deny the issuance of a fingerprint clearance card to any person who is awaiting trial on or who has been convicted of an offense listed in section 41-1758.03, subsection B or F.
- B.** The division shall revoke the fingerprint clearance card of a person who has received a class one fingerprint clearance card and who is subsequently convicted of an offense listed in section 41-1758.03, subsection B.
- C.** The division shall revoke the fingerprint clearance card of a person who has received a class two fingerprint clearance card and who is subsequently convicted of an offense listed in section 41-1758.03, subsection F.
- D.** The division shall suspend the fingerprint clearance card of a person who is arrested for an offense listed in section 41-1758.03, subsection B, C, F or G.
- E.** A person who has been arrested for an offense listed in section 41-1758.03, subsection C or G and whose fingerprint clearance card has been suspended pursuant to this section may request a good cause exception hearing pursuant to section 41-619.55.

C - appealable class 1  
G - appealable class 2

AGENDA ITEM NO. III. B.

BOARD OF FINGERPRINTING MEETING DATE: April 11, 2001

SUBJECT: Consideration of Review of the Expedited Approval Process

SUBMITTED BY: Mr. LeHew

**BACKGROUND INFORMATION:**

Periodically, the Board reviews its processes and procedures for approving good cause exceptions. This is the quarterly review of the expedited review process.

Attached are copies of our current guidelines.

**BOARD ACTION REQUESTED:**  
below)

**INFORMATION** ☒

**ACTION** ☒ (described

Revise as necessary.

**ATTACHMENTS:**

**YES** ☒

**NO** ☐

## Arizona Board of Fingerprinting

### Interim Work Permits and Expedited Consideration

**1. Criteria (must meet all criteria listed):**

- a. Single arrest and/or single conviction;
- b. Single arrest and/or single conviction is at least 3 years old;
- c. Multiple arrests or multiple convictions, with the last offense at least 5 years old (multiple arrests or convictions cannot be for the same offense);
- d. Multiple arrests or multiple convictions for the same offense, with the last offense at least 10 years old.
- e. Applicant is not awaiting trial;
- f. Applicant has met all terms and conditions imposed by the court, including completion of probation, payment of fines, completion of community service hours, completion of required counseling, etc.;
- g. Applicant did not misrepresent criminal history on any form required by the Board of Fingerprinting; and

**2. Offenses:**

The arrest or conviction cannot involve physical violence, bodily harm or use of a weapon.

**3. Documentation Required:**

- a. Application for Good Cause Exception;
- b. Court documents <sup>- indicating disposition</sup> or police records related to the offense (or documentation from the court that the records are no longer available);
- c. Evidence that applicant met all requirements imposed by the court (court documents, receipts, personal statement);
- d. Personal account of the incident; and
- e. Criminal History Affidavit provided by the Board.

**4. General Administrative Guidelines:**

**a. Expedited Consideration**

- (1) Applicant is not required to be present.
- (2) Board has the option to approve, schedule for hearing or approve with conditions.
- (3) Board may include on a "Consent Agenda", allowing for action to be taken on multiple cases with one motion and vote.
- (4) Board may consider in person or by teleconference.
- (5) Board will not hear from applicant, take testimony, receive evidence or hear from witnesses.
- (6) Board may approve only the classification of card requested by the applicant, unless the applicant agrees to accept a lower classification of card as approved by the Board. An applicant that agrees to a lower classification of card may request a hearing for a higher classification. If an applicant does not agree to a lower classification of card as approved by the Board, a hearing will be scheduled.
- (7) Board of Fingerprinting Director has the discretion to refer any request for a good cause exception to the Board for hearing.

**b. Interim Work Permits {in addition to 4.a. (1) through (7) above}**

- (1) Requires a notarized request from the employing agency.
- (2) Requires a positive recommendation from the agency representative on the Board.

## HOW TO APPEAL FOR A GOOD CAUSE EXCEPTION

If you have been denied a fingerprint clearance from the Department of Public Safety, you may be eligible for a good cause exception. The Board has the right to consider your entire state and/or federal criminal record when making a good cause exception determination. Please list all arrests that may be on your record when completing the application form and provide all the requested documentation.

It is important that you indicate which type of fingerprint clearance you are requesting. If your employer requires a fingerprint clearance card, you must indicate whether you are appealing for a Class One or Class Two card. Most agencies require *at least* a Class Two fingerprint clearance card. However, if you will be working for an agency that has a contract with the Department of Economic Security – Division of Developmental Disabilities or are applying to be a surrogate parent under the Department of Education, you will need a Class One card. If you work in a residential care institution, nursing care facility, or home health agency contracted through the Department of Health Services (Vulnerable Adults), you are required to have a letter of Approval.

*You will be required to provide three current, original and signed letters of reference.* Letters of reference do not need to be notarized. Nevertheless, it is in *your* best interests to obtain quality references from friends, neighbors, co-workers, and/or employers that attest to your successful rehabilitation or positive change in lifestyle.

## GUIDELINES FOR OBTAINING AN INTERIM WORK PERMIT

An applicant for a good cause exception may be eligible for an **interim work permit** to continue working while awaiting a decision from the Board. The work permit will be valid for up to sixty days and will allow the applicant to work for the agency indicated on their fingerprint clearance card application. An applicant must meet all of the criteria listed below to be eligible.

1. Must complete the Board of Fingerprinting application for good cause exception and provide all requested documentation when possible.
2. Cannot be awaiting trial and must have met all of the terms and conditions imposed by the court; including completion of probation, payment of any fines, attendance at counseling, et cetera.
3. Have a single, isolated arrest or conviction on the criminal record with the incident occurring three or more years from the appeal application date.
4. Have multiple arrests or convictions on the criminal record, with the latest incident occurring five or more years from the appeal application date. If there are multiple arrests or convictions for the same offense, the latest must have occurred at least ten years ago.
5. The applicant cannot have an arrest or conviction that involves physical violence, bodily harm or use of a weapon.
6. The applicant must not have misrepresented his/her criminal history on any form required by the Board of Fingerprinting.
7. The applicant must provide a notarized recommendation, on letterhead, from an authorized representative of the employer for which the applicant wishes to work.



## **Arizona Board of Fingerprinting**

### **Interim Work Permits and Expedited Consideration**

**Criteria** (must meet all criteria listed):

- a. Single arrest and/or single conviction;
- b. Single arrest and/or single conviction is less than three years old;
- c. Multiple arrests or multiple convictions, with the last offense at least five years old (multiple arrests or convictions cannot be for the same offense);
- d. Multiple arrests or multiple convictions for the same offense, with the last offense at least ten years old;
- e. Applicant is not awaiting trial;
- f. Applicant has met all terms and conditions imposed by the court, including completion of probation, payment of fines, completion of community service hours, completion of required counseling, etc.;
- g. Applicant did not misrepresent criminal history on any form required by the Board of Fingerprinting; and

#### **Offenses:**

The arrest or conviction cannot involve physical violence, bodily harm or use of a weapon.

#### **Documentation Required:**

- a. Application for Good Cause Exception;
- b. Court documents or police records related to the offense (or documentation from the court that the records are no longer available);
- c. Evidence that applicant met all requirements imposed by the court (court documents, receipts, personal statement);
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## **General Administrative Guidelines:**

### **a. Expedited Consideration**

- (1) Applicant is not required to be present.
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# ARIZONA BOARD OF FINGERPRINTING

4/17/01

So far this year, DPS:

V/A Completed:	9,934	Denied:	619	6%
ACCT Completed	26,274	Denied:	1,021	4%

REVISED COPY

So far this year, BOF:

## Vulnerable Adults:

Total Number of Appeals*	432	Closed Due to Board Action:	211
Total Number of Closed*	289	Approvals	181
Total Number of Pending	143	Denials	30
% of Total Approvals	64%	% of Approvals due to Board Action	86%
% of Total Denials	36%	% of Denials due to Board Action	14%

## ACCT\*\*\*:

Total Number of Appeals	1,402	Closed Due to Board Action:	575
Total Number of Closed	1,012	Approvals	504
Total Number of Pending	390	Class 1	377
		Class 1 R	4
		Class 2	101
		Class 2 R	22
% of Total Approvals	56%	Denials	71
% of Total Denials	44%	% of Approvals due to Board Action	88%
		% of Denials due to Board Action	12%

\* Includes 10 DHS appeals.

NOTE: The total closed includes all applicants who applied but either never returned their applications, were ineligible to appeal, or were denied because they failed to show up at their hearing. It also includes those who were subsequently issued a letter of approval by DPS after Board staff helped them obtain more information.

\*\*\* ACCT figures are based over a 2-year period while V/A are since July.

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